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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No. 2:17-CR-00037
Plaintiff,	:	UNITED STATES' NOTICE REGARDING
	:	EMAILS
v.	:	
	:	Judge Nuffer
CLAUD R. KOERBER aka RICK	:	
KOERBER,	:	Magistrate Judge Warner
Defendant.	:	

NOTICE:

Around August 28, 2017, a week into trial, Mr. Koerber produced a database of emails as required by the Court's rulings regarding reciprocal discovery. The emails appear to be a subset of a much larger email database, consisting of emails involving potential trial witnesses identified by the parties. Mr. Koerber's counsel represented to the Court that the defense had conducted a privilege review and withheld emails asking for or receiving legal advice.¹ The United States initially could not review the documents because of the format in which they were produced.

¹ While transcripts are not yet available, this discussion, to the United States' recollection, occurred with the Court on the morning of August 29, 2017.

During trial, Mr. Koerber's prior defense counsel produced searchable pdf versions of some of these emails for a few of the witnesses.

After trial, the United States sent the database to be processed into a readable format. The database has now been processed and the emails are now in an Ipro database with Bates-numbering. In preparation for the upcoming re-trial, the United States began reviewing the emails. During the review, we recently discovered what appear to be communications involving attorneys. Accordingly, we have stopped our review.

The United States has sent a copy of the Ipro email database to Mr. Koerber's current counsel. The United States asked defense counsel to notify the United States by January 16, 2018, if they believe that any of these communications are protected from disclosure, and whether disclosure was inadvertent. We asked defense counsel to identify by Bates number any documents they believe may be protected from disclosure. We will then segregate those documents from the database and continue our review. Then, if necessary, the United States will seek guidance from the Court as to whether the segregated communications are subject to any privilege(s) and whether any privilege(s) has been waived. To that end, the United States will suspend its review of the email database at issue until after January 16, 2018.

DATED this 21st day of December, 2017.

JOHN W. HUBER
United States Attorney

/s/ Ruth Hackford-Peer
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